

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 06-0526
Sales Tax
For Tax Years 2003-2005

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ISSUE

I. Sales Tax—Imposition.

Authority: IC § 6-8.1-5-1; 45 IAC 2.2-5-67.

Taxpayer protests the assessment of sales tax.

STATEMENT OF FACTS

Taxpayer is a corporation engaged in manufactured home sales. The Indiana Department of Revenue ("Department") audited Taxpayer. The Department determined that Taxpayer owed additional sales and use tax.

The Department determined that Taxpayer underreported its manufactured home sales for the years at issue. Taxpayer protested the Department's proposed assessments based on the underreported home sales. The Department conducted an administrative hearing and this Letter of Findings results. Further facts will be supplied as required. Any use tax issue not specifically addressed in this Letter of Findings is deemed to be resolved in a manner consistent with the Department's audit. Any withholding tax issue is deemed to be resolved in a manner consistent with Taxpayer's filings and payment records.

I. Sales Tax—Imposition.

DISCUSSION

Taxpayer protests the imposition of sales tax on its manufactured home sales. The Department determined Taxpayer's overall sales for the tax years. The Department then subtracted Taxpayer's previously reported sales and out-of-state sales. The Department then assessed sales tax on sixty-five percent of the difference pursuant to 45 IAC 2-2-5-67 (relating to mobile homes and industrialized residential structures).

Taxpayer contends that the use of its gross income inaccurately states Taxpayer's retail sales. Taxpayer notes that its gross income includes several accounts, including manufactured housing sales concededly subject to tax, along with other accounts that Taxpayer maintains are generally not subject to sales tax. Taxpayer provided its annual income statements for the years in controversy which provided amounts classified by account.

In addition, Taxpayer also provided several invoices which Taxpayer claims in support of its contentions regarding its sales. The Department refers to IC § 6-8.1-5-1(b), which provides that the burden of proving a proposed assessment wrong rests with the person against whom the proposed assessment is made.

Taxpayer has submitted a number of randomly selected invoices per Department request. The Department then reviewed the invoices to compare the sales tax that should have been charged and the sales tax listed on the invoices.

Two invoices charged incorrect sales tax and other invoices contained rounding errors. Overall, the difference between the sales tax charged and sales tax due on the invoices resulted in a 0.13 percent underreporting of sales tax. Taxpayer is sustained except with respect to the 0.13 percent of sales tax underreported.

Taxpayer has also indicated that two months' sales tax returns may not have been filed. The Department will resolve any issues with respect to his returns separately upon filing (if any) of those returns.

FINDING

Taxpayer's protest is sustained to the extent stated above.